

It competes in the marketplace with the strong, uniform synthetic fibers.

Under the cotton provision of H.R. 9811, many California growers would choose to cut back substantially their production in order to be eligible for diversion payments which will bring the returns of cotton they produce up to around 35 cents per pound middling inch. This will mean a vast reduction in cotton needed by our textile mills. Such a shortage would lead to increased use of synthetics.

The bill also provides—page 15, section 401, subsection 3, by amending section 346 of Agricultural Act of 1938—that any cottongrower, who would forego the Government loan, all Government payments, and all Government subsidies on his cotton, could grow for the world price of about 21 cents a pound without acreage restrictions. I believe some growers in California would be adventurous enough to try growing cotton not only for the world market at the world price, but also for our own domestic textile mills at the world price. These mills need high quality cotton in order to use more of the other qualities of cotton in the manufacturer of modern textiles. This will occur without any cost to the taxpayers and without any possibility of this cotton ending up in Government warehouses. Production of more of such high-quality cotton will actually mean that more of the domestic supply of cotton would be consumed and less synthetics will be used. The Department of Agriculture feels that this section should be kept intact. So do I. And so, in my judgment, do the American consumers and taxpayers.

BIG BROTHER: TELEPHONE MONITORING

Mr. LONG of Missouri. Mr. President, recently, I received from the Public Utilities Commission of the State of California its opinion and order in case No. 7915—investigation on the Commission's own motion into the service offering of telephone monitoring equipment under filed tariffs by telephone companies; Decision No. 69477 of July 27, 1965. I ask unanimous consent to have this important decision printed at this point in the Record.

There being no objection, the decision was ordered to be printed in the Record, as follows:

DECISION NO. 69447, BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(Investigation on the Commission's own motion into the service offering of telephone monitoring equipment under filed tariffs by telephone corporations.—Case No. 7915 (filed June 3, 1964).)

(Pillsbury, Madison & Sutro, John A. Sutro, George A. Sears, John A. Sutro, Jr., Arthur T. George by George A. Sears and John A. Sutro, Jr., for the Pacific Telephone and Telegraph Co.; Claude N. Rosenberg of Baciagalupi, Elkus & Salinger, for California Water & Telephone Co.; Albert M. Hart, for General Telephone Co. of California; respondents, F. T. Searis and John C. Morrissey, by John C. Morrissey, for Pacific Gas & Electric Co.; William L. Knecht, for the Cali-

fornia Farm Bureau Federation; Neal C. Hasbrook, for California Independent Telephone Association; John W. Burnham, for the city of Los Angeles, Los Angeles Fire Department, and Los Angeles Police Department; interested parties. Elinore Charles and Ernest J. Macario, for the Commission staff.)

OPINION

On October 14, 1964, this proceeding was heard at San Francisco before Commissioner McKeage and Examiner Coffey. This matter was consolidated for hearing with case No. 8032, the suspension and investigation of tariffs of the Pacific Telephone & Telegraph Co. which would have discontinued the requirement for the use of an automatic tone device for police and fire emergency calls, and upon which a separate decision has been issued.¹

This investigation was instituted because it appeared that:

1. Certain public utility telephone corporations in California offer to their subscribers under tariffs on file with the commission equipment designated as monitoring equipment, also referred to as service observing and training equipment. This equipment, as designed, permits overhearing, surveillance and recording of communication over the telephone lines of said subscribers from points on the premises and under the control of said subscribers.

2. Such equipment may have been used, or may be used, in a manner contrary to the laws of the United States of America or the State of California, or in a manner inimical to the maintenance of privacy of communication over the telephone network in California.

This investigation was instituted into the operations, services and practices of all public utility telephone corporations in California for the following purposes:

1. To determine what equipment, services or facilities are presently being offered to subscribers by telephone corporations for the purpose of permitting monitoring, overhearing, surveillance or recording of telephone communications;

2. To determine whether tariff offerings providing equipment for such practices should be canceled, suspended or modified in any particular; and

3. To determine whether any order or orders that may be appropriate in connection with monitoring practices should issue in the lawful exercise of the commission's jurisdiction.

For the purpose of this investigation we adopt and find reasonable the following definition of monitoring or service observing and training equipment (hereinafter referred to as monitoring equipment): telephone utility apparatus by which a telephone subscriber, or any of his employees or agents, may listen to or record telephone conversations on premises owned or controlled by the subscriber (a) without any audible indication to the parties conversing that their conversation is being overheard, or (b) without connection of a device to provide two-way conversation between the listener and the parties conversing so that the listener's voice may be heard throughout any period of eavesdropping, or (c) without notice of any recording being given by an automatic warning tone.

The staff of this commission did not present any direct testimony, but the utilities division of the staff originated letters to the Pacific Telephone & Telegraph Co. (Pacific), General Telephone Co. of California (General), and California Water & Telephone Co. (C.W. & T.) directing them to review their operations and to make a presentation with respect to the three above-

¹ Decision No. 68678, Mar. 2, 1965, case No. 8032.

listed purposes. In addition, a questionnaire was given to said telephone utilities asking that the information requested therein be incorporated into their presentations. Further, a letter was sent to all other California telephone utilities, 42 in number, directing them to submit written advice concerning equipment, services or facilities, if any, which they offer or furnish for the purpose of permitting monitoring, overhearing, surveillance, and recording of telephone communications.

Staff counsel construed the replies (exhibit 1) of said 42 other telephone utilities as indicating that none offer "monitoring equipment." Analysis of the replies, considering the adopted definition of monitoring, reveals the following:

1. California Interstate Telephone Co. has received a request for telephone monitoring equipment from a hospital to be used to monitor and train receptionists and on or about July 16, 1964, submitted for staff review an unsigned and undated draft of an advice letter relating to the provision of monitoring equipment;

2. Two distance-talking speakers are connected by Central California Telephone Co. to the listed fire number to enable the local police chief and fire department to monitor each report of fire;

3. Colorado River Telephone Co. provides 20 private branch exchange (PBX) switchboards, serving 523 PBX stations, which have the capacity of monitoring the PBX stations;

4. A telephone answering switchboard is in service on the Gilroy Telephone Co. system which "is equipped as a built-in feature with a monitor key which only permits the owner to monitor operational procedures from a remote position."

A witness for Pacific testified that four principal items of monitoring equipment are furnished by Pacific as follows:

1. Monitoring equipment in connection with dial PBX systems;

2. Key equipment arranged for monitoring in small manually switched installations of up to three lines;

3. Cord-operated cabinets with capacities of from 10 to 100 lines arranged for monitoring on the larger manually switched installations; and

4. Monitoring for use by subscribers with key equipment service.

Available ancillary items used in connection with these four services include recorder-conductor equipment, visual busy and line signals and amplifying equipment. Monitoring equipment may be furnished by Pacific on the same premises as that on which the service being monitored is located or on different premises of the same subscriber in the same building; or monitoring equipment may be furnished on premises of the same subscriber in a different building from that in which the service being monitored is located.

Pacific provides in addition two special assemblies of monitoring equipment. The first special assembly is arranged for monitoring on one position of an order-receiving turret and the second special assembly provides a 10-line cabinet for monitoring and recording on microphone lines and monitoring on central office or PBX station lines. An arrangement to provide tone signal from the monitoring cabinet over one or more monitoring lines to lines or positions being monitored can be provided.

We note from filed tariff sheets that Southern California Telephone Co. offered monitoring equipment by a tariff sheet filing effective June 24, 1944, and that on March 31, 1947, Pacific & Southern California Telephone Co. were merged.

Pacific's witness testified that monitoring equipment is useful to a business subscriber for the basic purposes of employee-training and of supervision to evaluate and

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improve the overall quality of service being rendered by employees. Pacific provides 307 subscribers in California with monitoring installations. These subscribers were classified in the following 27 categories:

Airlines and aircraft companies; answering services; auto dealers; auto leasing; banks; saving and loan; commercial business (service and equipment dealers); credit associations; credit card companies; department stores; food companies; gas, electric, and mobile telephone companies; hospitals and clinics; insurance companies; investigation services; magazine circulations; manufacturers; movie studios; newspapers; oil companies; other business; governmental bodies; professional services (consulting, M.D.) and other services; radio-TV stations; realty companies; schools (beauty, dance, driving, etc.); transportation (except airlines); and unions.

This record does not contain any detail of the need and use of monitoring equipment by any subscriber or business category. For example, there is no such detail in this record for the eight subscribers classed as "investigation services," and by the same token there is no explanation why "stockbrokers" do not subscribe for monitoring equipment. The record does show that Pacific furnishes to only eight subscribers recorder-connector equipment in conjunction with monitoring installations.

Without reference to any filed tariff sheet, Pacific's witness testified that—

1. Monitoring equipment is not furnished to business subscribers to enable the monitoring of private conversations;
2. Business lines which are subject to monitoring typically carry conversations between an employee of the business subscriber and a customer of the business subscriber;
3. Lines subject to monitoring are not intended for use for personal calls unrelated to the business interests of the subscriber to the equipment;
4. Pacific has made no residential monitoring installations;
5. Pacific's employees are instructed in the nature and use of monitoring equipment;
6. Pacific informs interested subscribers of the purposes for which monitoring equipment is offered, and how it may be useful and "properly" used;
7. Business subscribers generally inform their employees of the existence and use of monitoring equipment;
8. The operation of monitoring equipment is the responsibility of the subscriber;
9. Pacific's employees operate subscriber monitoring equipment only at a subscriber's request to study the subscriber's communication usage problem and to recommend improvements in the subscriber's telephone practices;
10. Monitoring equipment has been offered by Pacific for over 20 years with a record of subscriber satisfaction and absence of complaints by employees of subscribers or other persons;
11. No complaints have come to the witness' attention except in connection with Brookside Hospital, and those complaints arose out of an internal dispute between the hospital administrator and staff doctors;
12. Abuse or misuse of the equipment is possible;
13. Pacific believes that the possibility of misuse by an unprincipled few is no reason to deprive business subscribers of the benefits of monitoring equipment;
14. There are numerous electric devices available which are better adapted to secret surveillance than monitoring equipment furnished by Pacific, which latter equipment is bulky, is "normally" installed in plain view of those whose calls are subject to monitoring and is neither intended nor adapted for secret or surreptitious use;
15. Pacific has never removed monitoring equipment because of improper use;
16. Pacific cannot "police" monitoring equipment.

17. Recorder-connector equipment, incorporating the "beep tone" required by Federal Communications Commission regulations, may be used in conjunction with monitoring equipment connected to exchange or toll facilities;

18. A "beep tone" is not required for recorders connected to private line facilities; and

19. About \$125,000 in revenue was received by Pacific for monitoring installations during the fiscal year ending June, 1964, or about one one-hundredth of 1 percent of operating revenue.

Pacific presented, in exhibit 4, prepared tariff sheets which set forth proposed conditions governing the use of monitoring equipment.

A witness for General provided block diagrams of monitoring equipment and testified that:

1. Monitoring equipment has been offered by General since 1941 (about 23 years);
 2. One hundred seventy-two customers subscribe for 353 units of monitoring equipment;
 3. Monitoring equipment is not actively sold and most installations result from customer action;
 4. General does not require subscribers' employees to be notified of the use of monitoring equipment;
 5. After installation, General makes no follow-up;
 6. No complaints on use of monitoring equipment have come to the attention of the witness;
 7. General is in favor of continuing the offer of monitoring equipment since it is believed that such equipment is a necessary adjunct to the training and supervision of employees and the arrangement serves a legitimate and important business purpose;
 8. If the monitoring equipment needs of customers cannot be met by General, the witness believes the customers will seek other ways and means of satisfying these needs; and
 9. The annual billing for monitoring equipment, excluding special assemblies for governmental agencies, is about \$25,300, special governmental assemblies amounting to an additional \$21,200 annually.
- A witness for C.W. & T. testified that—
1. C.W. & T. has offered monitoring equipment since August 1958;
 2. Equipment is provided to customers which is designed to monitor PBX station lines and trunks, no indication being given to the calling and called parties that the call is being monitored and there being no way by which the operator of the monitoring equipment may converse with either of said parties;
 3. The monitoring turrets are usually located in private or semiprivate locations;
 4. The monitoring operator may listen to two-way conversations between PBX stations or between a PBX station and a station outside the PBX system;
 5. C.W. & T. presently furnishes monitoring equipment to three subscribers and has two applications on file for monitoring systems;
 6. C.W. & T. does not undertake to insure that monitoring equipment will be properly used;
 7. C.W. & T. has never had any complaint that such equipment was being used for improper purposes;
 8. Monitoring equipment could be used for improper purposes, but is no more susceptible to misuse than other equipment provided by C.W. & T.;
 9. Ordinary PBX installations are susceptible of being used for eavesdropping by a PBX operator either at her own instance or upon instructions of her employer, or even by accident;
 10. C.W. & T. takes no steps to ensure that equipment is being used;

11. It would be impossible for C.W. & T. to "police" the use of monitoring equipment;

12. Some customers will provide and use their own monitoring equipment if the utility does not provide it; and

13. Annual revenue from monitoring equipment was \$708 in 1963.

A member of the public testified that Pacific monitoring equipment without "beep tone" had been used to listen to a personal telephone conversation in San Francisco between herself and her lawyer and to listen to a telephone conversation between a union business agent and herself, and that it was the basis of an accusation relating to language used on the telephone. The witness was not cross-examined.

Representatives of the telephone utilities argued that no evidence was presented that monitoring was illegal or improper, that the monitoring equipment is desired by customers, that generally the tariff revisions proposed by Pacific are acceptable to the utilities, that telephone utilities should not be required even by implication to enforce the proper use of monitoring equipment, and that telephone utilities should be indemnified by a subscriber for any liability that might be asserted against the utility by reason of the subscriber's use of monitoring equipment.

Staff counsel argued that utilities have a duty to safeguard against abuses by the use of monitoring equipment, that the utilities should be required to remove monitoring equipment if a subscriber fails to comply with any of the specified conditions of service, that notice to employees of the use of monitoring equipment should be effected by posters in the working area of those employees whose telephone conversations are subject to monitoring, and that without such special conditions the utilities should not be permitted to use an indemnity clause. Staff counsel also suggested the use of a recorded message to inform outside parties that a call is subject to being monitored, or in lieu thereof a "beep tone."

At the request of the examiner, counsel included in this record argument on the legal status of the monitoring equipment. Counsel agree that public utility offering of monitoring equipment is legal and not in direct violation of section 653j of the Penal Code.²

²Sec. 653j: "Eavesdropping or recording confidential communications.

"(a) Every person or his authorized agent not a party to the communication who, intentionally and without the consent of any party to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records a confidential communication, whether such communication is carried on among such parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio, shall be punished by imprisonment in the county jail not exceeding 1 year, or by fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

"(b) The term 'person' includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether Federal, State, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording such communication or an individual acting under the direction of a party to the confidential communication.

"(c) The term 'confidential communication' includes any communication carried on in such circumstances as may reasonably indicate that the parties to such communication desire it to be confined to such parties, includes a communication made in a public gathering or in any legislative, ju-

The citations presented and their legislative history⁴ would seem to indicate that consent to the use of monitoring equipment by one of the parties to a conversation may make possible the use of monitoring equipment without legal penalty. However, section 7906 of the Public Utilities Code provides:

"The Public Utilities Commission shall regularly make inquiry of every telephone corporation under its jurisdiction to determine whether or not such corporation is taking adequate steps to insure the privacy of communications over such corporation's telephone communication system."

In our view, section 7906 of the Public Utilities Code and section 653 of the Penal Code clearly indicate that it is the continuing policy of the legislature that communications over public utility telephone systems shall be private.

It would appear from the testimony presented in this investigation that complete privacy of communication does not in fact exist in view of the many opportunities for eavesdropping which result from ordinary partylines, telephone extensions, mobile radio operations, speaker-phones, and PBX operations. However, even though privacy of communication may not be assured absolutely, it is not in the public interest and not in accord with public policy to continue to authorize the use of monitoring equipment without adequate safeguards to promote privacy for each of the parties to a conversation being conducted over a public utility telephone system. The claim that partyline and other such multiple access situations negate privacy over a telephone system overlooks the many commonplace audible sounds which give notice of eavesdropping over equipment not designed for monitoring—sounds such as key clicks, noises resulting from the movement of a telephone handset, the sound of breathing, room noises from the eavesdropper's location, and changes in telephone transmission and reception characteristics.

judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

"(d) Except as proof in a suit or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative or other proceeding.

"(e) This section shall not apply to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the overheard is for the purpose of construction, maintenance, conduct or operation of the services and facilities of such public utility, or to the normal use of the services and facilities furnished by such public utility pursuant to its tariffs.

"(f) This section shall not be construed to repeal sections 591, 593(b), 619, 621, 640, 653h or 653i of this code or to render lawful any act which is unlawful under any of those sections.

"(g) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

"(h) Nothing in this section shall be construed as prohibiting law enforcement officers from doing that which they are otherwise authorized by law to do."

⁴ Sec. 653 in its initial bill form prohibited overheard without consent of "all parties"; it was amended to provide for consent by "any party."

We find that—

1. The following telephone services do not use monitoring equipment as herein defined:

(a) Party line service;
(b) Recording-connector equipment with automatic tone warning device;

(c) Telephone answering service provided by a telephone utility;

(d) Telephone answering service provided by other than a telephone utility if the equipment does not permit the operator to "bridge" a circuit without the operator's transmitter being at the same time connected to the circuit;

(e) Automatic answering and recording equipment which provides for answering a telephone, giving a subscriber-prepared message to the calling party, and recording messages from the calling party, if the equipment advises the calling party by voice message and/or tone that a message will be recorded;

(f) Mobile radio telephone service by a telephone utility;

(g) Extension stations;

(h) Key systems which connect a subscriber's subset and which are complete with transmitter to telephone circuits;

(i) Telephone speaker-phones;

(j) PBX and other operator switched equipment which does not permit the operator to "bridge" a circuit without the operator's transmitter being at the same time connected to the circuit; and

(k) Telephone monitoring equipment when used by a public utility telephone corporation for the purpose of construction, maintenance, conduct or operation of the service and facilities of said public utility;

2. Since the inception of the use of monitoring equipment by telephone subscribers in the World War II period, the use of monitoring equipment has increased to include approximately 500 business subscribers in California;

3. Monitoring equipment as hereinabove defined gives no notice to any party to a telephone conversation that the conversation may be or is being monitored;

4. Public utility telephone corporations are unable to ensure, and are unwilling to attempt to ensure, that monitoring equipment will not be used for purposes other than those allowed by the authorized conditions of service;

5. This record contains no showing that business subscribers for monitoring equipment forbid private incoming telephone calls to their employees or that such calls are excluded from monitoring;

6. It is a reasonable condition of service, and it is in the public interest in promoting the privacy of communications, to require that all subscriber monitoring equipment (as herein defined) which is used to monitor telephone conversations over any part of the telephone network used by the general public, or generally available to the public, in California, shall give appropriate notice to the parties to a monitored telephone conversation that said conversation is being monitored;

7. Such notice of the use of monitoring equipment should be given either:

(a) By an automatic tone warning device which will automatically produce a distinct signal that is repeated at regular intervals during the course of the conversation when the conversation is being monitored; or

(b) By clearly, prominently, and permanently marking each telephone instrument capable of being monitored to indicate that

⁴ This finding does not include conversations between telephone service subscribers and telephone corporation executives, managers or business office service and commercial representatives.

⁵ PBX switchboards are not included in this estimate.

the conversation of the user may be monitored without notice; provided that this method of giving notice may be used only if the monitoring equipment is modified to permit the monitoring only of signals transmitted from the monitored telephone, as opposed to signals received by the monitored telephone;

8. Such automatic tone warning device should have the characteristics prescribed by the Federal Communications Commission for an automatic tone which gives notice that a telephone conversation is being recorded; and

9. The use of said automatic tone and such marking of telephone instruments, to give warning of the use of monitoring equipment, should be explained in telephone directories.

We conclude that public utility telephone corporations should be required to file tariff sheets incorporating the special condition that all monitoring equipment, as herein defined, will be furnished only: (a) with an automatic tone warning device having the characteristics, and operating in the manner, set forth in the following order, or (b) with monitoring equipment modified to permit monitoring only of signals transmitted by the monitored telephone, and then only if such telephones are marked as provided in the following order. A period of conversion should be permitted.

ORDER

It is ordered that—

1. All those public utility telephone facilities (sometimes referred to as monitoring or service observing and training equipment) which are designed to permit eavesdropping, overhearing, surveillance and/or recording, by a subscriber or his employee or agent, of two-or-more-way telephone conversations over any part of the telephone network used by the general public, or generally available to the public, in California, without the knowledge and consent of all parties to said conversations, shall, after 6 months after the effective date of this order, be used only when notice of any such monitoring, eavesdropping, overhearing, surveillance or recording is given to the parties to each monitored conversation, as hereinafter provided.

2. Said notice of the use of monitoring or service observing and training equipment shall be given either: (a) by an automatic tone warning device which shall automatically produce a distinct tone warning signal audible to a parties to a telephone conversation, repeated at regular intervals during the course of said conversation, whenever said equipment is in use to monitor, eavesdrop, overhear and/or record said conversation, or (b) by clearly, prominently and permanently marking each telephone instrument capable of being monitored to indicate that the conversation of the user may be monitored without notice; provided that this method of giving notice may be used only if the monitoring equipment is modified to permit the monitoring only of signals transmitted from the monitored telephone, as opposed to signals received by the monitored telephone. The characteristics and operation of said tone shall be the same as those specified by the Federal Communications Commission for notice of the use of recording devices in connection with interstate and foreign message toll service.

3. Each California public utility telephone corporation which offers monitoring or service observing and training equipment shall, not later than 6 months after the effective date of this order, revise its tariff sheets on file with this Commission relating to monitoring or service observing and training equipment to comply with this order. Said revision shall include detailed specifications for the marking of telephone instruments which is referred to in paragraph 2 of this order.

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4. All California telephone directors issued by, or under the authority of, any public utility telephone corporation shall include a description and statement of the significance of said tone warning signal and of such marking of telephone instruments; said description and statement shall be included in all directories issued more than 6 months after the effective date of this order.

The effective date of this order shall be 20 days after the date hereof.

Dated at San Francisco, Calif., this 27th day of July 1965.

FREDERICK B. HOLOBOFF,
President.
GEORGE G. GROVER,
A. W. GATOV,
Commissioners.

(Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.)

(Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.)

Mr. LONG of Missouri. As you will note, Mr. President, California has taken decisive action against the burgeoning practice of eavesdropping in the so-called service training area.

Approximately 500 subscribers of all kinds in California have been provided by the various telephone companies with nonbeeping monitoring and recording equipment.

The California Public Utilities Commission has come along and drastically changed this "big brother" type situation.

Decision No. 69447 of the California Public Utilities Commission orders that telephone conversations of the general public may be monitored only when notice is given to the affected conversants.

When both sides of a conversation are being monitored, overheard, and/or recorded, a beep tone must be repeated at regular intervals.

Telephones equipped with devices for monitoring only one side of a conversation must be labeled with a warning that the conversation of the user may be monitored without notice.

Telephone directories issued in the future by public utility telephone corporations must include a description and statement of the significance of the tone signal and written warning.

The order applies to the use of "all those public utility telephone facilities which are designed to permit eavesdropping, overhearing, surveillance and/or recording, by a subscriber or his employee or agent, of two-or-more-way telephone conversations over any part of the telephone network used by the general public, or generally available to the public, in California, without the knowledge and consent of all parties to said conversations."

I shall correspond with both the Federal Communications Commission and the major telephone companies to see if something cannot be worked out to regulate "service training" monitoring throughout the country.

Hopefully, no Federal legislation will be needed to accomplish this end. However, the Congress should be willing to consider proposals if regulation cannot be achieved by the telephone companies and the FCC on a national basis.

In any event, the California Public Utilities Commission is to be heartily congratulated for leading the way.

PROPOSED LAKE ERIE-OHIO RIVER CANAL

Mr. LAUSCHE. Mr. President, the proposed Lake Erie-Ohio River Canal is one of the most controversial subjects presently being discussed by the citizens of Ohio, especially those residing in the northeastern section of the State.

Early this year, the Corps of Engineers issued a voluminous report as a result of their study, which was previously authorized by the Congress. The proposal is now pending before the Corps of Engineers Board for Rivers and Harbors.

Communities in Ohio and individual residents of those communities are sharply divided on the question of whether or not the proposed canal would be feasible and beneficial or just a tremendous waste of more than a billion dollars.

Proponents base their approval largely upon the report of the Corps of Engineers. The opposition contends that the report is incomplete and has overlooked many potential obstacles and that the proposed cost is extremely underestimated.

Mr. John DeGroot, staff writer for the Akron Beacon Journal, has studied the report by the Corps of Engineers, together with all available information obtainable from the opponents, and has incorporated this in a comprehensive article which appeared in the Sunday, August 22, magazine section of the Akron Beacon Journal. Since eventually, there is a possibility that the Congress may have to make some decisions concerning this proposed canal, I believe it timely that Mr. DeGroot's article be made available to the Members of the Congress for their information and perusal. I ask unanimous consent that the article be printed in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS CANAL A BOON OR BOONDOGGLE?—DITCH
— WOULD COST \$1.25 BILLION
(By John DeGroot)

Boon or boondoggle? The proposed \$1.25 billion canal linking the Ohio River with Lake Erie has been called both.

Certainly, it is one of the most costly and sweeping projects ever proposed in the Buckeye State.

Longer than the Suez Canal, the huge waterway would extend from the Ohio River, near Rochester, Pa., to Fairport Harbor—a small Lake Erie port near Painesville.

A sprawling, 86-mile-long man-made lake would be created to supply the canal with water. This lake would cover whole towns. Construction crews would create canyons and turn inland cities into ports during the 7 years that it would take to complete the project.

Millions and millions of dollars would be poured into Ohio's economy during the canal's construction.

But experts are sharply divided over what the canal would do for Ohio after it is completed.

Some say it would solve the growing economic problems of steel industries in the Youngstown area.

Others contend that it would inflict a staggering blow on the State's economy, crippling existing transportation industries, and costing the jobs of thousands of workers.

Surprisingly, few State leaders have taken a stand on the canal, although it represents one of the largest single Federal projects ever proposed for Ohio.

From the Governor's office to the legislature, the canal has been greeted with silence and requests for time to study it.

And for the average Ohioan, the huge project stands as a big question mark with a bigger price tag.

The canal was first considered more than 100 years ago. The current proposal was made earlier this year by the district office of the U.S. Army Corps of Engineers, in Pittsburgh, which said the project was "economically feasible" and recommended construction.

Since then, the corps' national Engineers Board for Rivers and Harbors has been evaluating the five-volume construction proposal.

The Board also is weighing statements of opposition and support by various industrial, governmental, and transportation groups.

In this month's issue of Nation's Business, the canal was cited as one of four major boondoggles. The national business publication labeled the project an "impressive dream."

The proposed canal would follow the paths of the Beaver and Mahoning Rivers as it flowed northward from the Ohio River. It would pass through three counties in Pennsylvania, entering Ohio at Mahoning County.

After passing through the center of Youngstown, the canal would travel on to Warren in Trumbull County.

North of Warren, it would slash through the hills that divide the southward flowing watersheds of the Mahoning and Beaver Rivers from the watershed of the Grand River, which flows north into Lake Erie.

A manmade canyon more than 100 feet deep would create the divide cut.

Just north of the divide cut, a huge reservoir would be created to insure an ample water supply for the waterway. The reservoir would be filled with millions of gallons of water pumped from Lake Erie.

When filled, the reservoir would cover more than 71,000 acres and would be some 35 miles long.

The Federal Bureau of Outdoor Recreation and the U.S. Department of Fish and Wildlife have proposed that 34,350 acres be set aside around the reservoir for recreation sites and game preserves.

The canal would flow from the reservoir along the Grand River to Painesville and then on to Fairport Harbor and Lake Erie.

Seven locks with a combined lift of 169 feet would be required on the Beaver and Mahoning River section of the project. Three more locks, with a combined lift of 271 feet, would be constructed on the Grand River between the reservoir and Lake Erie.

Corps officials estimate that the canal could handle traffic on a year-round basis. However, Fairport Harbor would be closed from December to April each year.

Thus, freight would have to be stockpiled at the harbor during the winter.

The canal would be 120 miles long, three times longer than the Panama Canal and 13 miles longer than the Suez.

At its narrowest point, it would be 200 feet wide. But for most of its length, it would be 300 feet wide.

Corps engineers believe the canal would cost more than \$8 million a year to maintain.

Seven years and more than \$700 million will be required to construct the huge project, according to the engineers.

But when finished, they believe it will carry an annual average of 80 million tons of freight during its 50-year project lifespan.